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UNCLAS SECTION 01 OF 02 BRASILIA 003106

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SUBJECT: BRAZIL CORRUPTION SCANDAL UPDATE, WEEK OF 21-25  
NOVEMBER 2005

REF.: BRASILIA 03001 AND PREVIOUS

1. SUMMARY. The long-awaited dismissal of Deputy Jose Dirceu from the House of Deputies was delayed again, and it is now at least plausible that he may not be dismissed at all. After receiving a favorable decision from the Constitution and Justice Committee that postponed one more time the final vote on his impeachment, Dirceu may win a reprieve from the Supreme Court that could delay the final disposition of his case into 2006. In a November 25 conversation with Poloff, Dirceu said he now gives himself a 50 percent chance of surviving (vs. a 25 percent chance before the Supreme Court's decision). The opposition adopted a tougher stance after the demise of the Vote-Buying Scheme CPI, although they agreed to invite, rather than summon, Finance Minister Palocci to testify before the Bingos CPI. The latest poll released on November 22 shows Lula's approval ratings reaching record lows. END SUMMARY.

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DIRCEU CASE: CONGRESS VS. SUPREME COURT  
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2. Former Lula Chief of Staff Jose Dirceu scored two important victories in the Chamber and the Supreme Court (STF) this week, improving his chances of avoiding impeachment, and firing up an institutional crisis between the Legislature and the Judiciary. On November 22, as expected, the Chamber's Constitution and Justice Committee (CCJ) approved the report of Deputy Sergio Miranda (PDT-MG), which requested the postponement of Dirceu's judgment by the Chamber until his appeal pending before the Supreme Court had been decided. By a 34 to 15 vote margin, Dirceu's victory in the CCJ reflected the opposition's fear that, if his case were declined and the plenary had voted on his expulsion on November 23, as previously scheduled, the Supreme Court would vote in favor of Dirceu and invalidate the process. Since the Supreme Court decision was supposed to be released on November 23, the Chamber postponed the final vote on Dirceu's expulsion to November 30.

3. The Supreme Court decision, however, was not what the deputies expected. Dirceu's appeal to the court was based on the fact the one of the accusation witnesses, the manager of Banco Rural, Katia Rabello, testified after Dirceu had presented his defense, making it impossible for him to properly defend himself from her accusations. Ten of the 11 Justices voted on the appeal, 5 in favor and 5 against, leaving the final decision in the hands of Minister Sepulveda Pertence, the only Justice not present in the session. Pertence will announce his decision on November 30, just a few hours before the Chamber is scheduled to vote on Dirceu's impeachment.

4. Pertence may vote against Dirceu's appeal, in which case the Chamber would be free to start procedures to expel him. He may also decide to exclude the testimony of Rabelo from the final report, ostensibly giving Dirceu just a few more days before being impeached, but this would mean eliminating evidence, and Dirceu may use the resulting lack of evidence as the basis for another appeal. Pertence's last possibility would be to request the Ethics Committee to summon more defense witnesses, reintroduce the report and vote on it again. In this case, Dirceu's impeachment vote might be put off until early 2006, which will delay the other 13 impeachment cases pending before the Ethics Committee. In a November 25 conversation with Poloff, Dirceu said he now gives himself a 50 percent chance of surviving (vs. a 25 percent chance before the Supreme Court's decision).

5. Following the Supreme Court vote, the president of the Ethics Committee, Deputy Ricardo Izar, sent a memo to all of the Justices explaining how the impeachment process was conducted and why Rabelo was the last witness to testify. He has also requested a meeting with the Supreme Court Justices, in an attempt to persuade them to alter their decision. However, many congressmen, both in the Chamber and in the Senate, have been criticizing the Supreme Court's "undue interference" in Legislative affairs, and raising concern about an institutional crisis. "The Judiciary is politically interfering in Congressional affairs" stated Senator Jefferson Peres (PDT-AM) before senators from opposition parties announced that they will

not vote on the 2006 Budget until Dirceu's case is finalized.

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OPPOSITION GETS TOUGH IN REMAINING CPIS  
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16. The abrupt end of the Vote-Buying Scheme CPI, regarded by some as an absolution of the Lula administration, prompted the opposition to get tougher in the other two committees. In the Bingos CPI, the governing coalition and the opposition agreed not to summon, but to invite, Minister Palocci to testify. The date has not yet been determined, but should be sometime before December 10. During the past few days, the Minister appeared before three different Congressional Committees: the Senate's Economic Affairs Committee, on November 16; the Chamber's Finance Committee, on November 22; and a public hearing in the Chamber, also on November 22. Septel to follow will examine Palocci's situation more in depth.

17. While the government and the opposition came to agreement in the Bingos CPI, in the Postal Service CPI, disputes prevented a vote on the preliminary report of the Sub-Committee on Financial Activities, which recommends the prosecution of former PT treasurer Delubio Soares and PT "bagman" Marcos Valerio. The governing coalition demanded the inclusion of the case of Deputy Eduardo Azeredo -- former PSDB leader whose treasurer confessed receiving money from Marcos Valerio -- in the sub-committee's report, while the rapporteur, Deputy Gustavo Fruet (PSDB-PR), has refused to include the case, arguing that it has already lapsed. PT representatives in the committee stated they will either refuse to vote on the report, propose an alternative report or present amendments. The report can only be sent to the competent authorities if the committee approves it.

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LULA'S APPROVAL RATINGS REACH RECORD LOWS  
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18. The Lula administration's popularity has dropped to new lows and his re-election chances are looking dimmer, according to the most recent CNT/Sensus poll released on November 22. President Lula's personal approval rating declined by 3.3 points compared to September figures, and is now 46.7%. The government approval ratings also suffered a similar drop, from 35.8 to 31.1%. Moreover, besides showing him losing to Sao Paulo Mayor Jose Serra in a second-round run-off, the new poll shows that the margin of victory Lula would enjoy against other prospective candidates is also diminishing.

CHICOLA